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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205331
Party	Defendant Kerry Earnhardt, Inc.
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Date	10/28/2015
Attachments	Applicant's Suggestion of Subsequently Decided Authority.pdf(51859 bytes)

**Fi: IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TERESA H. EARNHARDT,

Opposer,

v.

KERRY EARNHARDT, INC.,

Applicant.

**Consolidated Opposition Nos.:
91205331 (parent) and 91205338**

In the matter of:

**Application Serial No. 85/383,910
Trademark: EARNHARDT COLLECTION
(Intl. Class 20)**

**Application Serial No. 85/391,456
Service Mark: EARNHARDT COLLECTION
(Intl. Class 37)**

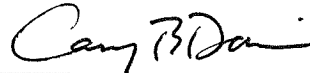
APPLICANT'S SUGGESTION OF SUBSEQUENTLY DECIDED AUTHORITY

Applicant Kerry Earnhardt, Inc. submits the following subsequently decided authority for the Board's consideration in the above-captioned case:

1. *Juice Generation, Inc. v. GS Enterprises LLC*, 794 F.3d 1334, 115 U.S.P.Q.2d 1671 (Fed. Cir. July 20, 2015).

The cited case concerns: (1) the relevance of third-party use and third-party registrations when assessing the strength of an opposer's mark under the likelihood of confusion analysis; and (2) the proper analysis of trademarks consisting of multiple words, including disclaimed words.

This 28th day of October, 2015.



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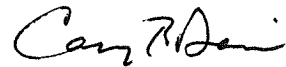
Attorneys for Applicant Kerry Earnhardt, Inc.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served upon each of the parties to this action by depositing same in the United States mail, postage prepaid, in an envelope(s) addressed as follows:

Larry C. Jones
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Carla H. Clements
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Bank of America Plaza
101 S. Tryon Street, Suite 4000
Charlotte, NC 28280-4000

This 28th day of October, 2015.



Cary B. Davis